



POLICE DEPARTMENT

August 21, 2018

-----X-----

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2016-16331
Sergeant Chung Bang	:	
Tax Registry No. 929677	:	
Police Service Area 1	:	

-----X-----

At:                   Police Headquarters  
                        One Police Plaza  
                        New York, New York 10038

Before:              Honorable Jeff S. Adler  
                        Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department:     Beth Douglas, Esq.  
                                  Department Advocate's Office  
                                  One Police Plaza  
                                  New York, NY 10038

For the Respondent:     John D'Alessandro, Esq.  
                                  The Quinn Law Firm  
                                  Crosswest Office Center  
                                  399 Knollwood Road Suite 220  
                                  White Plains, NY 10603

To:

HONORABLE JAMES P. O'NEILL  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NEW YORK 10038

COURTESY • PROFESSIONALISM • RESPECT  
Website: <http://nyc.gov/nypd>

## CHARGES AND SPECIFICATIONS

1. Said Sergeant Chung Bang, while assigned to the 109th Precinct, on or about December 8, 2015, within the confines of the 109th Precinct, did wrongfully utilize the Department computer to make inquiries unrelated to the official business of the New York City Police Department.

P.G. 219-14 Page 1, Paragraph 2 - DEPARTMENT COMPUTER SYSTEMS

2. Said Sergeant Chung Bang, while assigned to PSA #1, on or about May 27, 2016, did wrongfully utilize the Department computer to make inquiries unrelated to the official business of the New York City Police Department and divulged information to a third party.

P.G. 219-14 Page 1, Paragraph 2 DEPARTMENT COMPUTER SYSTEMS

3. Said Sergeant Chung Bang, while assigned to the 109th Precinct, on or about July 3, 2015, within the confines of the 109th Precinct, did fail and neglect to maintain his Activity Log, as required.

P.G. 212-08 Page 1, Paragraph 1 - ACTIVITY LOGS

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on July 25, 2018.

Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review. After considering the evidence, I find some mitigation is warranted, and recommend that Respondent forfeit twenty-five (25) vacation days.

## SUMMARY OF EVIDENCE IN MITIGATION

This case arises out of Respondent's twice utilizing Department computers to make inquiries unrelated to Department business. In the first instance, after learning that two officers from his command were arrested, and being advised that he, himself, was being placed on modified duty, Respondent made computer inquiries regarding the arrests of those officers. On the second occasion, Respondent made a computer inquiry after an assault victim friend reached

out to him asking whether anyone had been arrested for the assault; Respondent advised his friend that an individual had, in fact, been arrested.

Respondent testified that on December 8, 2015, he was working as the desk officer in the 109 precinct. He had been a sergeant for about five years as of this date. He recalled that when he arrived at work, he heard other members of service discussing that two officers in the command, former [REDACTED] and former [REDACTED] had been arrested. He stated that the members of the command had no further details about these arrests. About an hour after reporting for duty, Respondent was advised by an Inspector from IAB that he was being placed on modified duty. He was not advised as to why he was being modified, but simply directed to wait upstairs in the locker room. (Tr. 14-15, 21-22)

Respondent estimated that he waited upstairs for about six hours. He admitted that during that time, he accessed the arrest reports of [REDACTED] and [REDACTED] on the Department computer, and learned that they were arrested for bribery-related offenses. Respondent acknowledged that he had no official purpose for making these inquiries. He explained that he did so because he was trying to figure out why he had been modified. Respondent did call his delegate hoping for clarification, but learned that the delegate was coming from Suffolk County, and did not arrive until approximately five or six hours later. (Tr. 16, 23-30)

Respondent testified that he remains on modified duty, and has yet to be informed why he was modified. Respondent insisted that other than the charges in this matter, he never has been accused of any misconduct connected to the bribery arrests of [REDACTED] and [REDACTED] the Department Advocate offered no evidence to the contrary. (Tr. 16 17)

With respect to the second specification, Respondent admitted that on May 27, 2016, he again utilized a Department computer database to make an unauthorized inquiry. He testified that he did so after a friend, Person A, called him from the emergency room and stated that

he had been assaulted in the confines of the 109 precinct the day before. Person A had not heard from the DA's Office and wanted to know whether the individual who assaulted him had been arrested. Respondent, who had been transferred from the 109 precinct to the VIPER Unit immediately after being modified several months earlier, made a computer inquiry and confirmed to Person A that the individual had been arrested. He insisted that he divulged no further details, and told Person A that an ADA would probably be in touch soon. (Tr. 17-19, 30-33)

In addition to the unauthorized computer inquiries, Respondent admitted that on July 3, 2015, he failed to record in his Activity Log the name of his partner, and the number of the RMP he was traveling in that day. (Tr. 20, 34-36)

## PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on July 1, 2002. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. In 2009, Respondent forfeited 30 vacation days for the improper signing of supporting depositions. However, he also has received numerous medals in recognition of his excellent police work

Respondent has pled guilty to using Department computers to make inquiries unrelated to official Department business on two occasions, and on one of those occasions divulging information to a third party. Patrol Guide 219-14 expressly states that members of service are to utilize Department computer systems to "make only official inquiries, which relate to official business of the Department." It further provides that officers shall "not divulge any information obtained from the system, except for [a] valid law enforcement purpose." As a veteran officer

and a supervisor for over five years at the time of these incidents, Respondent should have been well aware of these regulations regarding the use of the Department's database. Officers do not have carte blanche to make computer inquiries whenever they, or a friend or family member, are curious about something. To his credit, Respondent readily acknowledged his violation of these policies.

The Advocate asks that Respondent be suspended for ten (10) days, forfeit twenty (20) vacation days, and be placed on one-year dismissal probation. Among the cases cited by the Advocate in support of this penalty recommendation is *Disciplinary Case No. 2007-83194* (March 5, 2012), where a 17-year sergeant was dismissed from the Department after he accessed the confidential IAB logs of two officers, and divulged to one of those officers highly confidential information pertaining to an FBI investigation, possibly placing an informant's life in danger. As the Advocate concedes, however, Respondent's actions here should not be equated with the sergeant's misconduct in that earlier case. Notably, in the December 8 matter, there is no evidence that Respondent divulged anything related to the arrests of Sung and Yam. Also, with respect to both matters here, there is no indication that Respondent in any way compromised either investigation.

More comparable precedent supports a lesser penalty. In *Disciplinary Case No. 2017-18260* (May 23, 2018), an 11-year sergeant with no disciplinary record negotiated a penalty of 10 vacation days for conducting 27 unauthorized computer inquiries regarding his estranged wife, his ex-girlfriend, and his father. In *Disciplinary Case No. 2017-17261* (Jan. 18, 2018), a 14-year detective with no disciplinary history negotiated a penalty of 10 vacation days for conducting seven computer searches regarding the arrest of his barber, and sharing that information with the barber's wife.

On the one hand, this tribunal is mindful that Respondent must be held accountable for twice misusing the Department's computer database for personal reasons. In the first matter, Respondent conducted computer inquiries regarding two officers who had just been arrested and were under Department investigation for serious misconduct. The Advocate is correct that it would have been better for Respondent to wait for the delegate to arrive, rather than taking it upon himself to investigate the arrests of his colleagues. In the second instance, not only did Respondent do a computer search regarding a case to which he was not assigned, he also informed his friend that an individual had been arrested.

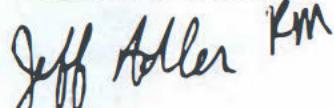
However, in fashioning an appropriate penalty, it is important to give careful consideration to the limited extent of Respondent's wrongdoing in each of these matters, based on the evidence presented. In the first case, Respondent, confused about why he was being modified, attempted to gain some insight into his status by looking up why other officers in his command had just been arrested. No evidence was presented that Respondent divulged any information related to the arrests of [REDACTED] and [REDACTED], or that he did anything to interfere with the pending investigation; rather, the credible evidence established that Respondent did no more than check the arrest charges for [REDACTED] and [REDACTED]. Respondent testified, without contradiction, that he never has been accused of any misconduct connected to the bribery investigation.

In the second instance, Respondent provided basic information to a friend who had just been the victim of a crime. Specifically, Respondent informed his friend that an individual had been arrested for the assault. To be sure, the Advocate is correct that Respondent should instead have referred his friend to the officer who was handling his case. However, the information Respondent provided was minimal. Respondent sensibly followed up by suggesting to his friend that someone from the District Attorney's Office should be contacting him shortly, and he

advised his friend that he could contact the precinct of occurrence if he wanted to obtain a copy of the complaint report.

As such, Respondent's misconduct, for which he has taken full responsibility, was not so egregious that it warrants dismissal probation or a period of suspension. Instead, some mitigation of the Advocate's penalty recommendation is warranted. Taking into account the totality of facts and circumstances in this matter, including the comparable case precedent, I recommend that Respondent forfeit twenty-five (25) vacation days.

Respectfully submitted,

 PM

Jeff S. Adler  
Assistant Deputy Commissioner Trials

## APPROVED

OCT 12 2018

  
JAMES P. O'NEILL  
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
SERGEANT CHUNG BANG  
TAX REGISTRY NO. 929677  
DISCIPLINARY CASE NO. 2016-16331

Respondent was appointed to the Department on July 1, 2002.

On his last three annual performance evaluations, he twice received a 3.5 overall rating of "Highly Competent/Competent" for 2016 and 2017, and received a 4.5 rating of "Extremely Competent/Highly Competent" for 2014. He has received eleven (11) medals for Excellent Police Duty and three (3) medals for Meritorious Police Duty. [REDACTED]

In 2009, Respondent pled guilty to the improper signing of supporting depositions and forfeited thirty (30) vacation days.

Respondent was placed on modified assignment on December 8, 2015, which remains ongoing. As a result of the instant charges and specifications, Respondent was placed on Level 2 Discipline Monitoring on October 13, 2016. That monitoring remains ongoing as well.

For your consideration.

*Jeff Adler* RM  
Jeff S. Adler  
Assistant Deputy Commissioner Trials